

Notice of Allowability

Application No.

10/530,931

Examiner

Ganapathirama Raghu

Applicant(s)

LYNGLEV ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/07/07.
2. ☒ The allowed claim(s) is/are 23-49.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Detailed Action

In response to the FAOM mailed on 06/13/2007, applicants' filed a response and amendment received on 12/07/07. Said amendment, amended claims 23-28 added new claims 45-49. Thus, claims 23-49 are pending and are under consideration.

Rejections and/or Objections and rejections not reiterated from previous action are hereby withdrawn.

Claims 23-28 and 45-49 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 39-44, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, 04/16/2007 hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 04/16/2007 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jason Garbell on 12/26/07.

In the Specification:

Page 3, line 34, delete http://

Page 4, line 2, delete "http://"

Allowable Subject Matter

Claims 23-49 are allowed.

The following is an examiner's statement of reasons for allowance:

All elected claims, are limited to an isolated polypeptide having asparaginase activity, comprising an amino acid sequence of SEQ ID NO: 2. Following a diligent search it was determined that the prior art neither teaches nor suggests an isolated polypeptide having alpha-asparaginase activity, comprising an amino acid sequence of SEQ ID NO: 2. The closest prior art is the disclosure by Goward CR (US Patent No.: 5310670), said reference discloses the isolation of a polypeptide designated as asparaginase having only 41.2% sequence homology to SEQ ID

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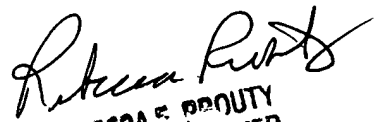
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NO: 2 of the instant invention. The utility of isolated polypeptide having asparaginase activity, comprising an amino acid sequence of SEQ ID NO: 2 is credible based on the expression of active polypeptide in heterologous host cells, purification of said asparaginase, determination of enzyme properties and the use of said asparaginase in various processes (Examples 1-5, pages 7-13 of specification). Said asparaginase has real world utility, for example, asparaginase can be used in combination with other enzymes in a method to achieve reduction in the formation of acrylamide during heat treatment of food products comprising carbohydrate, protein and water.

Any comments considered necessary by applicant must be submitted no later than the payment of issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ganapathirama Raghu whose telephone number is 571-272-4533. The examiner can normally be reached on 8 am to 4.30 pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of the application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Ganapathirama Raghu, Ph.D.
Patent Examiner
Art Unit 1652
Dec. 26, 2007.


REBECCA E. PROUTY
PRIMARY EXAMINER
GROUP 1652
(60)